

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In Re:

LEXINGTON PRECISION CORP., et al.,

Case No. 08-11153 (SCC)
Chapter 11
Jointly Administered

Reorganized Debtors.

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RESPONSE OF THE STATE OF MICHIGAN, DEPARTMENT
OF TREASURY TO DEBTOR'S SECOND OMNIBUS CLAIMS OBJECTION

Now comes the State of Michigan, Department of Treasury (Michigan Treasury) by and through its attorneys, Michael A. Cox, Attorney General and Juandisha Harris, Assistant Attorney General and responds to Debtors' Objection as follows:

1. Lexington Precision Corp. and certain affiliated companies, including Lexington Rubber Group, Inc. filed for bankruptcy under Chapter 11 of the Bankruptcy Code on April 1, 2008.
2. The Michigan Department of Treasury filed a claim for taxes as an administrative expense under 11 USC § 503(b)(1)(B) in the amount of \$136,519.00 (Claim 4504 and 4505) against Lexington Rubber Group, Inc.¹
3. The Debtors objected to Treasury's claim stating the claim was satisfied. However, the Debtors do not provide any evidence to support this objection.
4. Michigan Treasury's claim was filed as the result of non-filed Michigan Business Tax returns for the 2008 and 2009 tax periods.

¹ Michigan Treasury mailed one claim to the claims agent, but apparently the claim was duplicated in the claims agent system.

5. Michigan Treasury's claims are afforded *prima facie* validity. In re: Spohn, 61 Bankr. 264 (Bankr. W.D. Wisc. 1986); In re: Circle J Dairy, Inc., 112 Bankr. 297 (Bankr. W.D. Ark. 1989). Unless the Debtors object and tender sufficient evidence to overcome the *prima facie* validity accorded to the claims, the claims must be allowed. Id. The Debtors in the instant case have not offered any evidence whatsoever in support of its objections to Michigan Treasury's claims. Therefore, the Debtors' objections to the claims must be denied.

Based on the above, the Michigan Department of Treasury respectfully requests that this Court require Debtor Lexington Rubber Group Inc. to file its 2008 and 2009 Michigan Business Tax returns, remit any tax due and deny the Debtors' objection to Michigan Treasury's claims.

Respectfully submitted,

Michael A. Cox
Attorney General

/s/Juandisha Harris 
Juandisha Harris (P62978)
Assistant Attorney General
Revenue Division
3030 W. Grand Blvd Ste 10-200
Detroit, MI 48202
Telephone: (313) 456-0140
Harrisj12@michigan.gov

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